

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:07CV01988 ERW
	)	
ELBERT A. WALTON, JR., et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on United States' Motion to Compel Defendant to Respond to Written Discovery [doc. #44], Defendant Midland Mortgage Co.'s Motion for Summary Judgment [doc. #48], United States' Motion to Amend Judgment [doc. #55] and United States' Notice of Stay Relief and Renewed Motion to Amend Judgment [doc. #67]. A hearing was held on May 1, 2009.

**I. MOTIONS TO AMEND JUDGMENT**

On July 10, 2008, the Court entered a Judgment in this action in favor of the Government. On November 17, 2008, Defendants filed a Motion to Stay as Defendant Elbert Walton, Jr. filed a Petition in Bankruptcy. The next day, the Government filed a motion asking that the Court amend the judgment to include statutory interest. This Motion has been held in abeyance while this case has been stayed pending the Bankruptcy Court proceedings.

The Government petitioned the Bankruptcy Court to lift the stay, and their request was granted. The Government now asks that the Court amend the Judgment to include statutory

interest. Defendant Walton states that he does not object to the amendment of the Judgment, and as a result, these motions will be granted.

However, the Court notes that there appears to be some confusion and disagreement between the Parties over whether the Amended Judgment should read that it includes “statutory interest that continues to accrue as provided by law” or whether it should state the exact amount of interest owed as of the date Defendant Walton filed for bankruptcy. The Government asserts that the Judgment should provide for the continued accrual of interest, because if the bankruptcy petition is dismissed, they are entitled to the continued accrual of interest. If Defendant Walton disagrees with the language in the Amended Judgment [see doc. #67-3], he must file notice with the Court by May 15, 2009, or the Court will enter the proposed Amended Judgment.

## **II. MOTION TO COMPEL AND MOTION FOR SUMMARY JUDGMENT**

The bankruptcy stay was lifted only for the purpose of entering the amended judgment in this case, and accordingly, these Motions cannot be considered by the Court. The Court finds that dismissal, with leave to refile, is appropriate at this time.

Accordingly,


**IT IS HEREBY ORDERED** that United States’ Motion to Compel Defendant to Respond to Written Discovery [doc. #44] is **DENIED, with leave to refile.**

**IT IS FURTHER ORDERED** that Defendant Midland Mortgage Co.’s Motion for Summary Judgment [doc. #48] is **DENIED, with leave to refile.**

**IT IS FURTHER ORDERED** that United States’ Motion to Amend Judgment [doc. #55] is **GRANTED.**

**IT IS FURTHER ORDERED** that United States' Notice of Stay Relief and Renewed Motion to Amend Judgment [doc. #67] is **GRANTED**. If Defendant Walton disagrees with this language, he must file notice with the Court by May 15, 2009, or the Court will enter the proposed Amended Judgment.

So Ordered this 1st day of May, 2009.

  
E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE